

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 7088 - SB 7039**

August 22, 2023

**SUMMARY OF BILL:** Enacts the *Mental Health Parity Act* (Act). Requires every state healthcare entity (entity) to provide coverage for the treatment of mental health or substance use disorders in accordance with federal law which must be at least as extensive and provide at least the same degree of coverage as that provided by the entity for the treatment of other types of physical illnesses. Extends such coverage to the insurer's spouse and dependents, if such persons are covered under the benefit plan, policy, or contract. Prohibits the coverage from containing any exclusions, reductions, or other limitations as to coverages, deductibles, or coinsurance provisions which apply to the treatment of mental health or substance use disorders unless such provisions apply generally to other similar benefits provided or paid for under the state health plan.

Requires every entity to apply the proposed definitions of "generally accepted standards of mental health or substance use disorder care," "medically necessary," and "mental health or substance use disorder" in making any medical necessity, prior authorization, or utilization review determinations. Directs entities to ensure all subcontractors or affiliates responsible for management of mental health and substance use disorder care on behalf of the entity comply with the Act. Specifies that entities must process hospital claims for emergency healthcare services for mental health or substance use disorders in accordance with the Act, regardless of whether a member is treated in an emergency department.

Requires entities to submit a report, by January 1, 2024, and annually thereafter, to the Commissioner of the Department of Commerce and Insurance (DCI) that contains a comparative analysis and other information required of insurers under federal law and which delineates the comparative analysis and written processes and strategies used to apply benefits for children, adolescents, and adults. Requires the Commissioner of DCI to publish the reports on the department's website no later than January 1, 2025, and each year thereafter.

Effective October 1, 2023, and applies to policies entered into, amended, or renewed on or after that date.

**FISCAL IMPACT:**

**Other Fiscal Impact - If the Division of TennCare is required to provide additional coverage for mental health and substance abuse services based on a different definition of medical necessity, then expenditures will increase. Any such increase is dependent on a number of unknown factors and cannot be reasonably quantified.**

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Assumptions:

- According to the Division of Benefits Administration, the proposed legislation will not have a significant impact on the State Group Insurance Program.
- The proposed legislation would require the Division of TennCare to utilize a definition of "medically necessary" with respect to the treatment of a mental health or substance use disorder that is different from the statutory definition used by TennCare, found in Tenn. Code Ann. § 71-5-144.
- Requiring the Division of TennCare to utilize on a definition of medical necessity that is less restrictive than the current definition could result in an increase in expenditures for additional mental health and substance abuse services. Any such increase is dependent on a number of unknown factors and cannot be reasonably quantified.
- The DCI can publish the required reports utilizing existing personnel and resources.

**IMPACT TO COMMERCE:**

**Other Impact to Commerce - Mental health and substance abuse providers may experience an increase in business revenue if the Division of TennCare is required to provide coverage for services not currently deemed medically necessary. Any such increase is dependent on a number of unknown factors an cannot be reasonably determined.**

Assumptions:

- Mental health and substance abuse providers may experience an increase in business revenue if the Division of TennCare is required to provide coverage for services not currently deemed medically necessary. Any such increase is dependent on a number of unknown factors an cannot be reasonably determined.
- Any impact to jobs is estimated to be not significant.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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